

10.89
VIRGINIA:

BOOK 576 PAGE 026

BEFORE THE VIRGINIA GAS AND OIL BOARD

IN RE:

SUPPLEMENTAL ORDER REGARDING DOCKET NUMBER
VGOB 01-0918-0920

ELECTIONS: UNIT AX-116
(herein "Subject Drilling Unit")

REPORT OF BOARD

FINDINGS AND ORDER

This Supplemental Order is entered by the Board *sua sponte* in the form authorized by the Board at hearings held on February 15, 1994 and June 16, 1992; and this Supplemental Order is being recorded for the purpose of supplementing the Order previously in the captioned matter on December 20, 2001 which was recorded at Deed Book 544, Page 594 in the Office of the Clerk of the Circuit Court of Russell County, Virginia, on January 10, 2002, (herein "Board Order") and completing the record regarding elections.

Findings: The Board finds that:

The Board Order directed POCAHONTAS GAS PARTNERSHIP (herein "Designated Operator") to mail copies of the Board Order to all Respondents whose interests, if any, were pooled by the said Board Order;

The Designated Operator filed its affidavit of elections disclosing that it had mailed a true and correct copy of the Board's Order to all Respondents whose interests, if any, were pooled by said Board Order;

The Board Order required each Respondent whose interests, if any, were pooled by the terms of said Board Order to make an election within thirty (30) days after the date of mailing or recording, as applicable, of said Order; the affidavit of elections filed herein and annexed hereto as Exhibit A states: (i) whether each Respondent has made or failed to make a timely election; (ii) the nature of any election(s) made; and (iii) whether, by reason of a failure to elect or to timely elect one or more Respondents are deemed, under the terms of the Board's Order, to have leased all their rights, title, interests, estates and claims in Subject Drilling Unit to the Applicant;

That the affidavit of elections annexed hereto with the Exhibits submitted therewith identifies the Respondent(s) making a timely election, if any; identifies the Respondent(s), if any, who are deemed to have leased; identifies the conflicting interests and claims which require escrow; identifies the interests and claims, if any, requiring escrow under Virginia Code section 45.1-361.21.D.; and identifies the Respondents, if any, who may be dismissed by reason of having leased or entered into a voluntary agreement with the Applicant.

The affidavit of elections indicates whether or not the escrow of funds is required with regard to Unit AX-116;

Order: By this Order, the Board orders the Designated Operator to tender, consistent with and in accordance with the findings set forth at paragraph 2. above and the annexed affidavit of elections with Exhibits thereto, any funds subject to escrow and instructs the Escrow Agent, First Union National Bank, Corporate Trust PA1328,123 Broad Street, Philadelphia, PA 19109-1199, Telephone: (215) 985-3485 or (800) 664-9359, Attn: Don Ballinghoff, or any successor named by the Board to establish interest bearing escrow account(s), IRS Tax Identification Number 54-1629506, in accordance with the information set forth in the affidavit of elections with Exhibits thereto, to receive funds and account to the Board therefore.

ENTERED

Mailing of Order and Filing of Affidavit: The Designated Operator under the captioned Order or shall file an affidavit with the Secretary of the Board within ten (10) days after the date of receipt of this Order stating that a true and correct copy of this Order was mailed to each Respondent whose interests or claims are subject to escrow and whose address is known within seven (7) days from the date of receipt of this Order.

Conclusion: Therefore, the findings and all terms and provisions set forth above be and hereby are granted and IT IS SO ORDERED.

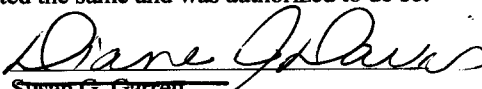
Effective Date: This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 18th day of February, 2003, by a majority of the Virginia Gas and Oil Board.


Chairman, Benny R. Wampler

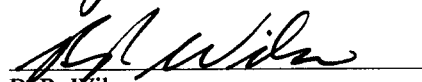
STATE OF VIRGINIA
COUNTY OF WISE

Acknowledged on this 18th day of February, 2003, personally before me a notary public in and for the Commonwealth of Virginia, appeared Benny R. Wampler, being duly sworn did depose and say that he is Chairman of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.


Susan G. Garrett
Notary


My commission expires: 9/30/05.

DONE AND PERFORMED THIS 19th day of February, 2003, by Order of the Board.


B. R. Wilson,
Director of the Division of Gas & Oil Board and
Principal Executive to the Board

STATE OF VIRGINIA
COUNTY OF WASHINGTON

Acknowledged on this 19th day of February, 2003, personally before me a notary public in and for the Commonwealth of Virginia, appeared B. R. Wilson, being duly sworn did depose and say that he is Director of the Division of Gas & Oil Board and Principal Executive to the Board, that he executed the same and was authorized to do so.


Diane J. Davis, Notary

My commission expires: 9/30/05.

Order Recorded Under Code of
Virginia Section 45.1-361.25

VIRGINIA:

Exhibit A

BEFORE THE VIRGINIA GAS AND OIL BOARD

IN RE:

Application of Pocahontas Gas Partnership for Forced Pooling of Interests in CBM Unit AX-116
VGOB-01-0918-0920 in the New Garden District of Russell County, Virginia

AFFIDAVIT OF POCAHONTAS GAS PARTNERSHIP (herein "Designated Operator") REGARDING
ELECTIONS, ESCROW AND SUPPLEMENTAL ORDER

Leslie K. Arrington, being first duly sworn on oath, deposes and says:

That your affiant is employed by Consol Energy Inc., as a Gas Engineer and is duly authorized to make this affidavit on behalf of POCAHONTAS GAS PARTNERSHIP, the designated operator,

That the Order entered on December 20, 2001, by the Virginia Gas and Oil Board (hereinafter "Board") regarding the captioned CBM Unit required the Applicant to mail a true and correct copy of said Order to each person pooled by the Order;

That within seven (7) days of receipt of an executed copy of the Order referred to at paragraph 2. above, your affiant caused a true and correct copy of said Order to be mailed via the United States Postal Service to each Respondent named in the captioned Application, whose address was known, and to all persons, if any, who were added as Respondents at the hearing held in the captioned matter; that proof of such mailing has previously been tendered to the Division of Gas and Oil, the Office of the Gas and Oil Inspector, at Abingdon, Virginia;

That the Order of the Board in the captioned matter required all persons pooled thereby to tender their written elections to the Unit Operator within thirty (30) days of the date the Order was recorded in the counties identified above; that said Order was recorded on January 10, 2002;

That the designated operator POCAHONTAS GAS PARTNERSHIP has established procedures to review all mail received and all written documents received other than by mail to ascertain whether parties whose interests have been pooled have made a written election, in a timely fashion, as required by the captioned Order; that said procedures were followed to identify the elections, if any, made with regard to the Subject Unit; that the following persons delivered, by mail or otherwise, written elections the Unit Operator, within the thirty day elections period:

None

That Respondents identified in Exhibit B-3 hereto are, having failed to make any election, deemed to have leased their coalbed methane rights, interests and claims to Applicant, all as provided in the Board's Order of December 20, 2001;

See attached Exhibit B-3

That the rights, interests and claims of the following persons are subject to escrow under the Board's Order pooling the captioned Unit, Board Regulations and the Code of Virginia:

See attached Exhibit E

That after the pooling hearing held in the captioned matter, the following persons have leased or entered into a voluntary agreement with the Designated Operator:

See attached Exhibit B-2

That to the extent any of said persons listed in Exhibit B-2 have rights, interests and claims which are subject to escrow, they should be dismissed as respondents; the Operator requests that the following persons be dismissed as Respondents:

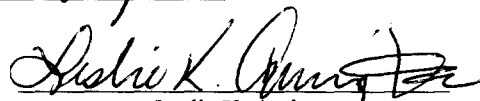
Virginia Phipps

That the persons identified in Exhibit EE attached hereto have entered into royalty split agreements that allow the Applicant/Designated Operator to pay them directly without the need to escrow funds which would otherwise be in conflict.


See attached Exhibit EE

That pursuant to the provisions of VAC 25-160-70.A.10. and C. and VAC 25-160-80 the annexed supplemental order sets forth the interests and claims that require escrow of funds pursuant to Virginia Code sections 45.1-361.21.D. and 45.1-361.22.A.3. and 4.

Dated at Tazewell, Virginia, this 30th day of JANUARY, 2003.


Leslie K. Arrington

Taken, subscribed and sworn to before me by Leslie K. Arrington as Gas Engineer of Consol Energy Inc., on behalf of the corporate Designated Operator, this 30th day of January, 2003.


Notary

My commission expires: 10/31/05.

PROPERTY LINES SHOWN WERE TAKEN FROM MAPS
PROVIDED BY CONSOL Inc. AND WERE NOT SURVEYED.

BOOK 575 PAGE 1030

N 303,649.10
E 993,302.87

N 303,591.70
E 994,901.35

1

CBM-PGP-AX116

58.7 ACRE UNIT

N 302,050.33
E 993,245.45

N 301,992.92
E 994,843.93

EXHIBIT A
MIDDLE RIDGE 1 FIELD
UNIT AX-116
FORCE POOLING
VGOB-01-0918-0920

Company Pocahontas Gas Partnership Well Name and Number UNIT AX116
Tract No. _____ Elevation _____ Quadrangle Hortaker
County Russell District New Garden Scale: 1" = 400' Date 9/18/01
This plat is a new plat X ; an updated plat _____ ; or a final plat 10958
Form DGD-GD-7 Claude J. Morgan (Affix Seal)
Rev. 9/91 Licensed Professional Engineer or Licensed Land Surveyor

POCAHONTAS GAS PARTNERSHIP**CBM-PGP-AX-116****Tract Identifications****(58.7 Acre Unit)**

1. Buckhorn Coal Mining - Tr. 7 - Fee
Consolidation Coal Company - Below Drainage Coal Leased
Sandy Ridge Energy Company - Above Drainage Coal Leased Except Kennedy Seam
H. C. Bostic Coal Company - Kennedy Seam Leased
Pocahontas Gas Partnership - CBM Leased
Reserve Coal Properties Company - Oil & Gas Leased
58.61 acres 99.8467 %
2. Swords Creek Land Partnership - Tr. 17 - Coal
Reserve Coal Properties Company - Below Tiller Coal Leased
Sandy Ridge Energy Company - Tiller and Above Coal Leased
Pocahontas Gas Partnership - CBM Leased
M. P. Whited Heirs, Devisees, Successors or Assigns - Surface, Oil & Gas
0.09 acres 0.1533 %

Exhibit B-2
CBM-PGP-AX116
Docket No. VGOB 01-0918-0920
List of Respondents to be Dismissed

BOOK 576 PAGE 662

	Acres in Unit	Interest in Unit	Reason for Dismissal
II. OIL & GAS FEE OWNERSHIP			
<u>Tract #2, 0.09 acres</u>			
(1) Jeraldine Whited et al. (formerly - M.P. Whited et ux. Heirs, Devisees, Successors or Assigns)	0.09 acres	0.1533%	
(f) Roby & Naomi Whited Heirs, Devisees, Successors or Assigns			
(f.3) Virginia Phipps HCR 63 Box 53 Jewell Ridge, VA 24622	0.007 1/13 of 1.775 acres	0.0118%	Leased

Exhibit B-3
CBM-PGP-AX116
Docket No. VGOB 01-0918-0920
List of all Unleased Owners/Claimants

BOOK 57 PAGE 33

	Acres in Unit	Interest in Unit
II. OIL & GAS FEE OWNERSHIP		
<u>Tract #2, 0.09 acres</u>		
(1) Jeraldine Whited et al. (formerly - M.P. Whited et ux. Heirs, Devisees, Successors or Assigns)	0.09 acres	0.153%
(b) Pauline & Manuel McPherson Heirs, Devisees, Successors or Assigns		
(b.1) Roger McPherson P.O. Box 1222 Wise, VA 24293	0.002 1/52 of 0.09 acres	0.003%
(d) Eveline Whited & John Franklin Heirs, Devisees, Successors or Assigns		
(d.1) John Glen Franklin 250 Click Town road Church Hill, TN 37642	0.002 1/52 of 0.09 acres	0.003%
(g) Lucy Whited & W.H. Brown Heirs, Devisees, Successors or Assigns		
(g.2) Beulah Brown Rt.1 Box 247 Swords Creek, VA 24649	0.003 1/26 of 0.09 acres	0.006%
(h) Charley Whited Address Unknown	0.007 1/13 of 0.09 acres	0.012%

Exhibit E
CBM-PGP-AX116
Docket No. VGOB 01-0918-0920
List of Conflicting Owners/Claimants that require escrow

BOOK 576 PAGE 6001

	Acres in Unit	Interest in Unit
<u>Tract #2, 0.09 acres</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Swords Creek Land Partnership P.O. Box 29 Tazewell, VA 24651	0.09 acres	0.1533%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Jeraldine Whited et al. (formerly - M.P. Whited et ux. Heirs, Devisees, Successors or Assigns)	0.09 acres	0.153%
(b) Pauline & Manuel McPherson Heirs, Devisees, Successors or Assigns		
(b.1) Roger McPherson P.O. Box 1222 Wise, VA 24293	0.002 1/52 of 5.77 acres	0.003%
(c) Audrey Franklin 106 Johnson Street Weber City, VA 24290	0.002 1/52 of 5.77 acres	0.003%
(d) Eveline Whited & John Franklin Heirs, Devisees, Successors or Assigns		
(d.1) John Glen Franklin 250 Click Town road Church Hill, TN 37642	0.002 1/52 of 5.77 acres	0.003%
(e) Roby & Naomi Whited Heirs, Devisees, Successors or Assigns		
(e.1) Linkous Whited Rt.2 Box 100 Honaker, VA	0.007 1/13 of 1.775 acres	0.012%
(e.2) McKinley Whited P.O. Box 1079 Raven, VA 24639	0.007 1/13 of 1.775 acres	0.012%
(e.3) Virginia Phipps HCR 63 Box 53 Jewell Ridge, VA 24622	0.007 1/13 of 1.775 acres	0.012%
(e.4) Hubert Whited 3120 St. Rt.98 Bucyrus, OH 44820	0.007 1/13 of 1.775 acres	0.012%
(f) Thelma Whited 160 Charleston St. Box 8 Weber City, VA 24290	0.002 1/52 of 5.77 acres	0.003%
(g) Lucy Whited & W.H. Brown Heirs, Devisees, Successors or Assigns		

Exhibit E
CBM-PGP-AX116
Docket No. VGOB 01-0918-0920
List of Conflicting Owners/Claimants that require escrow

BOOK 57 PAGE 1055

	Acres in Unit	Interest in Unit
(g.1) Kyle Brown Rt.1 Box 231 Swords Creek, VA 24649	0.003 1/26 of 5.77 acres	0.006%
(g.2) Beulah Brown Rt.1 Box 247 Swords Creek, VA 24649	0.003 1/26 of 5.77 acres	0.006%
(g.3) Ada Reedy c/o Ralph Reedy, Power of Attorney P.O. Box 159 Davin, WV 25617	0.003 1/26 of 5.77 acres	0.006%
(g.4) Idinia Perkins 1003 N. Trumble Road Mansfield, OH 44906	0.003 1/26 of 5.77 acres	0.006%
(h) Charley Whited <i>Address Unknown</i>	0.007 1/13 of 5.77 acres	0.012%
(i) H.C. Bostic Coal Company P.O. Box 220 Swords Creek, VA 24649	0.006 1/14 of 5.77 acres	0.011%

Exhibit EE
CBM-PGP-AX116
Docket No. VGOB 01-0918-0920
List of Conflicting Owners/Claimants with Royalty Split Agreements

	Acres in Unit	Interest in Unit
<u>Tract #2, 0.09 acres</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Swords Creek Land Partnership P.O. Box 29 Tazewell, VA 24651	0.09 acres	0.1533%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Jeraldine Whited et al. (formerly - M.P. Whited et ux. Heirs, Devisees, Successors or Assigns)	0.09 acres	0.153%
(a) Jeraldine Whited RR1 Box 256AA Swords Creek, VA 24649	0.028 4/13 of 5.77 acres	0.047%

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VIRGINIA: IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF RUSSELL COUNTY, 2-25, 2003. This deed was this day presented in said office, and upon the certificate of acknowledgment thereto annexed, admitted to record at 10:19 o'clock A M, after payment of \$ — tax imposed by Sec. 58.1-802.

Original returned this date to: Diane Davis

TESTE: DOLLIE M. COMPTON, CLERK
BY: Am. S. M. Compton D. CLERK

COMMONWEALTH OF VIRGINIA



OFFICIAL RECEIPT
RUSSELL CIRCUIT COURT
DEED RECEIPT

DATE: 02/25/03 TIME: 10:19:45 ACCOUNT: 167CL90300208 RECEIPT: 03000001504
 CASHIER: CSS RES: R100 TYPE: 000 PAYMENT: FULL PAYMENT
 INSTRUMENT : 03000002 3000K 576 PAGE: 022 RECORDED: 02/25/03 AT 10:13
 GRANTOR NAME : VIRGINIA GAS AND OIL BOARD EX: N LOCALITY: 00
 GRANTEE NAME : POTOMANTAS GAS PARTNERSHIP EX: N PERCENT: 100%
 AND ADDRESS :
 RECEIVED OF : DEPT OF MME
 CHECK : 421.00
 DESCRIPTION 1: REPORT OF BOARD OF FINDINGS AND ORDER
 2:
 CONSIDERATION: 00 ASSUMED 00
 CODE DESCRIPTION PAID CODE DESCRIPTION PAID
 301 DEEDS 21.00
 TENDERED : 31.00
 AMOUNT PAID: 31.00
 CHANGE AMT : 00

CLERK OF COURT: BOLLIE M. COMPTON